AF ZW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF APPEALS

Applicant(s):	Müller et al.
Serial No.:	10/601,325
Filed:	June 20, 2003
For:	HOLDING CLIP FOR FIXING THE POSITION OF GETTERS
Examiner:	James R. Brittain
Art Unit:	3677
Confirmation No.:	6977
Customer No.:	27673

Attorney Docket: 608.0023USU

Mail Stop Appeal Brief-Patents
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

We are enclosing for filing in the above-identified application the following:

1. Appellant's Reply Brief *(in triplicate)*;
2. Transmittal letter in duplicate; and
3. Postcard.

Please charge any additional fees or credit any such fees, if necessary to Deposit Account No. **01-0467** in the name of Ohlandt, Greeley, Ruggiero & Perle. A duplicate copy of this sheet is attached.

Respectfully submitted,

September 13, 2006
Date

Charles N.J. Ruggiero
Registration No. 28,468
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
Telephone: (203) 327-4500
Telefax: (203) 327-6401

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP APPEAL BRIEF-PATENTS, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON September 13, 2006 .

Joanne A. Romaniello
NAME

SIGNATURE

9/14/06
DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s):	Müller et al.
Serial No.:	10/601,325
For:	HOLDING CLIP FOR FIXING THE POSITION OF GETTERS
Filed:	June 20, 2003
Examiner:	James R. Brittain
Art Unit:	3677
Confirmation No.:	6977
Customer No.:	27,623

Attorney Docket No.: 608.0023USU

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF FILED UNDER 35 U.S.C. §134

Dear Sir:

In response to the Examiner's Answer dated July 13, 2006, Applicants file herewith a Reply Brief under 35 U.S.C. §134 and 37 C.F.R. §41.41.

The Examiner's Answer does not raise any new grounds of rejection. Rather, the Examiner's Answer raises new points of argument. This Reply Brief is directed only to the new points of argument.

Arguments

(i.) Combination fails to suggest all elements of claim 1

Independent claim 1 requires that "said flexurally rigid connection and said first and second sections are elastically deformable to brace the getter in said first section and said second section in said inner surface (emphasis added)".

The Examiner's Answer, with respect to Pohle, asserts that:

> "While the fingers 26 may eventually be welded at the outer ends to the gettering loop, this in no way affects the inherent resilience of the fingers bracing the gettering loop". See Examiner's Answer page 5, lines 4-6.

Appellants respectfully disagree.

More particularly, Appellants submit that even if the fingers of Pohle were inherently resilient as is asserted, Pohle simply does not disclose or suggest that this asserted "inherent resilience" would be or is sufficient to **both** brace the getter in the first section and to brace the second section in the inner surface as claimed. Rather, Pohle requires that the fingers be welded.

The Examiner's Answer then attempts to correct this deficiency in Pohle using Misono by asserting that Misono, in Figure 3, teaches a plurality of creased legs that inherently create a flexurally rigid connection.

Even if the plurality of creased legs of Misono were to be a flexurally rigid connection as is asserted, Misono too suffers from the same difficiency as Pohle. More particularly, Misono also requires the conductive spacer 7 to have one end secured to an electron gun structure 6. See col. 1, lines 40-43.

Thus, Appellants submit that both Pohle and Misono require securing to the gettering loop 19 (Pohle) or to the conductive spacer 7 (Misono). Thus, even if one

were to consider the creased legs of Misono as creating a flexurally rigid connection, the resultant combination of Pohle and Misono merely provides one flexurally rigid connection. The remaining portion of this proposed combination would still be secured as is taught by both Pohle and Misono.

Thus, this proposed combination would still lack the simple combination of three members are elastically deformable to **both** brace the getter in the first section and to brace the second section in the inner surface as required by claim 1.

As such, the proposed combination of Pohle and Misono simply do not disclose or suggest the simple combination of three members that are elastically deformable for bracing as required by claim 1.

(ii.) No reasonable expectation of success that combination results in claim 1

The Examiner's Answer reminds Appellants that the Court in *In re Prada* held it is proper to take into account the inferences which one skilled in the art would reasonably be expected to draw therefrom.

Misono and Pohle both require securing of one type or another. Thus, neither Misono nor Pohle suggest that inherent flexibility alone could be used to **both** brace the getter in the first section and to brace the second section in the inner surface as required by claim 1.

Appellants submit that one skilled in the art could simply not reasonably be expected to draw the conclusion asserted in the Examiner's Answer even when taking into account any inferences therefrom. In fact, Appellants submit that one skilled would draw the opposite conclusion to that made in the Examiner's Answer, namely one skilled would draw the conclusion that some type of securing is required.

Further, Appelants submit that Pohle and Misono each teach away from the

claimed construction by securing one of the ends and, not, bracing as claimed.

(iii.) No motivation to combine Pohle and Misono in the manner suggested

The cited references are directed to different problems. Pohle is directed to centering, while Misono is directed to ensuring that the film remains in contact with the spacer.

Since the nature of the problem to be solved by Pohle and Misono are different, there can simply be no motivation to combine the references to arrive at the claimed invention.

Further, the problems resolved by Pohle and Misono are both unrelated to controlling deformation as inferred by the Office Action. As such, inferring the nature of the problem of control deformation from Pohle and Misono is clearly flawed and, thus, there is simply no motivation to combine the prior art in the manner suggested by the Office Action.

(iv.) Conclusion

Accordingly, it is respectfully submitted that the proposed combination of Pohle and Misono in further view of Shaffer do not disclose or suggest independent claim 1. It is further submitted that the proposed combination of Pohle and Misono in further view of Shaffer do not disclose or suggest claims 2 through 7 or 11 through 13 for at least the reason that they depend from the aforementioned claim 1.

Appellants therefore respectfully request that the Board of Appeals reverse the final rejection of claims 1 through 7 and 11 through 13.

Summary

Appellants respectfully request that the Board of Appeals reverse the final rejections of claims 1 through 7 and 11 through 13, and rejoin withdrawn claims 9 and 10, thereby enabling all of the pending claims to be allowed.

Respectfully submitted,

September 13, 2006

Charles N. J. Ruggiero
Reg. No. 28,468
Attorney for Appellant(s)
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th floor
Stamford, CT 06901-2682
Tel: (203) 327-4500